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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,227	03/26/2004	Hannes Sternerson	010327-008510US	9029
20350 7590 12/11/2007 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER LIU, BEN H	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/811,227

Applicant(s)

STERNERSON, HANNES

Examiner

Ben H. Liu

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 8-13, 15-17, 19-21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Benyassine et al. (U.S. Patent 6,721,712).

For claims 1-3, 8, 11, 15, 16 and 20, Benyassine et al. disclose a system and method for providing frame rate conversion for audio data comprising:

A first client configured to transmit audio data frames at a first frame rate (*see column 2 lines 39-41, which recite receiving a plurality of speech signals encoded at a first frame rate*);

A second client configured to receive audio data frames at a second frame rate, wherein the first frame rate is different from the second frame rate (*see column 2 lines 46-48, which recite re-encoding the received frames using a second frame rate*);

A device configured to facilitate transmission of audio data frames between the first client and the second client (*see column 2 lines 58-67, which recite a processor which receives frames at a first frame rate and transmits the received frames at a second frame rate*).

The device is further configured to receive the audio data frames from the first client at the first frame rate and convert the audio data frames for transmission to the second client at the second frame rate (*see column 2 lines 58-67, which recite a processor capable of determining the encoding rate of the received frame and capable of encoding the received frame at a second rate*).

The device is also further configured to store the audio data frames received from the first client in an intermediate storage area (*see column 3 lines 40-48, which recite memory elements used in the functional blocks including the processor*); and

Repackage the stored audio data frames into one or more frames for transmission to the second client at the second frame rate (*see column 2 lines 58-67, which recite a processor capable of encoding the received frame at a second rate*).

For claims 4, 9, 12, 17, and 21, Benyassine et al. disclose a system and method for providing frame rate conversion for audio data wherein the system is implemented in software, hardware or a combination of both (*see column 3 lines 38-43, which recite implementing the functional blocks of the system as hardware components and/or software components configured to perform the specified functions*).

For claims 5, 10, 13, 19, and 23, Benyassine et al. disclose a system and method for providing frame rate conversion for audio data the first client and the second client include telephonic equipment (*see column 4 lines 15-19, which recite a client vocoder that is a CDMA cellular telephone*) and computers (*see column 5 lines 16-29, which recite a client vocoder that*

*is a device in a packet based network such as in G.729 Voice over Internet Protocol systems.*

*Such a client vocoder in an VOIP network can be a computer).*

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 6, 7, 14, 18, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benyassine et al. (U.S. Patent 6,721,712) in view of Mizusawa et al. (U.S. Patent Application Publication 2002/0037002).

For claims 6, 7, 14, 18, and 22, Benyassine et al. disclose all the subject matter of the claimed invention with the exception that a Voice-over-IP gateway is used for facilitating the

communications between a first client configured to transmit audio data at a first frame rate and a second client configured to receive audio data at a second frame rate. Mizusawa et al. from the same or similar fields of endeavor disclose a VOIP gateway device for performing frame conversion of frame formats with different bit rates (*see paragraph 9*). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the VOIP gateway for frame conversion as taught by Mizusawa et al. with the system and method for facilitating the communications between a first client configured to transmit audio data at a first frame rate and a second client configured to receive audio data at a second frame rate as taught by Benyassine et al. The system as taught by Benyassine et al. can implement through software (*see column 3 lines 38-43*). Thus, the VOIP gateway device for performing frame conversion of frame formats as taught by Mizusawa et al. can configured to perform the function of the conversion module 130 through software. The motivation for using the VOIP gateway device for performing frame conversion of frame formats as taught by Mizusawa et al. with the system and method for facilitating the communications between a first client configured to transmit audio data at a first frame rate and a second client configured to receive audio data at a second frame rate as taught by Benyassine et al. is to provide VOIP access as well as additional functions of private branch exchanges.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (*see form PTO-892*).

Application/Control Number:  
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Art Unit: 2616

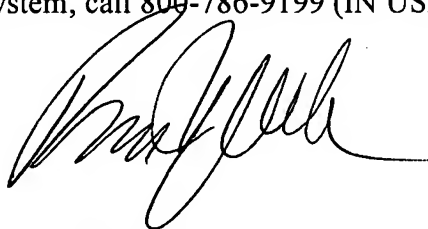
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ben H. Liu whose telephone number is (571) 270-3118. The examiner can normally be reached on 9:00AM to 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BL



**BRIAN NGUYEN**  
**PRIMARY EXAMINER**